

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA §
 §
v. § 1:18-cr-00410-RP-15
 §
FRANCISCO JAVIER MUNIZ (15) §

Order on Petition for Action on Conditions of Pretrial Release

In accordance with the Federal Rules of Criminal Procedure and 18 U.S.C. § 3148, on June 25, 2021, a hearing was held before the undersigned Magistrate Judge on the U.S. Pretrial Services' Petition for Action on Conditions of Pretrial Release (Dkt. 692). In the Petition, Pretrial Services alleged that Defendant violated the following condition of his release:

(7)(m) The defendant must not use or unlawfully possess a narcotic drug or other controlled substance defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

On May 27, 2021 and June 14, 2021, the Pretrial Services Office administered drug tests to Defendant. Pretrial Services Officer Daniel Palomares submitted the test results, which were confirmed positive for cocaine, and Defendant admitted to the use. On June 2, 2021, Defendant pled guilty to one count of Conspiracy to Possess with Intent to Distribute Cocaine, in violation of 21 U.S.C. §§ 846{841(a)(1) & 841(b)(1)(C)}. His sentencing is set for September 23, 2021.

The Court has carefully considered the original Pretrial Services Report; the docket; the Petition; the evidence presented during the hearing, including testimony from Defendant and three other witnesses; and the arguments of counsel for Defendant and the Government. Pursuant to § 3148(b)(1)(B), the Court finds by clear and convincing evidence that Defendant violated

condition (7)(m) of his release by using narcotic drugs or other controlled substances, as alleged in the Petition.

Nonetheless, Pretrial Services Officer Palomares testified that Defendant generally has complied with the other conditions of his release since September 2019. In view of Defendant's overall compliance, the Court finds that, based on the factors set forth in 18 U.S.C. § 3142(g), there are conditions of release that will assure that Defendant is not likely to flee or pose a danger to the safety of any other person or the community if he remains on release, and that he is likely to abide by such conditions. *See* 18 U.S.C. §§ 3142, 3143(a)(1), 3148(b)(2)(B). Specifically, Defendant is **ORDERED** to participate in one-on-one outpatient substance abuse therapy and counseling and to submit urinalysis weekly.

It is therefore **ORDERED** that the Petition for Action on Conditions of Pretrial Release is **DENIED**. Defendant remains on pretrial release subject to all conditions in the Court's Order Setting Conditions of Release (Dkt. 343), as amended by text order on December 30, 2019, as well as all conditions in this Order.

SIGNED on June 25, 2021.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE